

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

GARDA CL SOUTHWEST
Employer

and

Case 14-RC-209886

INTERNATIONAL UNION, SECURITY, POLICE AND
FIRE PROFESSIONALS OF AMERICA (SPFPA)
Petitioner

ORDER

The Employer's Request for Review of the Regional Director's Decision and Direction of Third Election is denied as it raises no substantial issues warranting review.¹

JOHN F. RING, CHAIRMAN

LAUREN McFERRAN, MEMBER

MARVIN E. KAPLAN, MEMBER

Dated, Washington, D.C., August 21, 2018.

¹ Chairman Ring and Member Kaplan express no view with respect to whether they agree or disagree with revisions made by the Board's Election Rule, but they agree that it applies here and warrants denial of the Employer's request for review in this case.

Further, Chairman Ring and Member Kaplan observe that this case demonstrates how certain revisions made by the Board's Election Rule have led to unintended and illogical results. Unlike prior case precedent permitting analysis as to whether an employer substantially complied with the voter list requirements despite untimely service, Sec. 102.62(d) does not allow regional directors discretion to excuse untimely service of a voter list. *URS Federal Services, Inc.*, 365 NLRB No. 1 (2016); see also *Pole-Lite Industries*, 229 NLRB 196, 197 (1977). In this case, the Petitioner had an initial voter list for 76 days and a second voter list (with one additional name) for 21 days before the rerun election occurred. Yet, the newly imposed Sec. 102.62(d) of the Election Rule, as interpreted by *URS Federal Services*, requires that the rerun election be set aside and a third election directed based on the Employer's service of the second voter list one day late. At minimum, a third election is an additional expense for the parties; at most, a third election is a potential frustration of the employees' free choice regarding union representation.